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Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his official visit to Honduras from 23 to 27 May 2016. In the report, the Special Rapporteur presents his main findings, including comments on the situation of violence in the country, the most frequently targeted groups, the policy and legal framework for the protection of the right to life and the lack of systematic accountability for violations of that right.

The Special Rapporteur makes recommendations to all parties involved, the Government, the international community and civil society for the prevention of unlawful killings and better protection of the right to life.

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Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras*

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* Circulated in the language of submission and Spanish only.

I. Introduction

1. At the invitation of the Government of Honduras, the Special Rapporteur conducted an official visit to the country from 23 to 27 May 2016. He thanks the Government for extending the invitation and for the extensive cooperation provided during the preparation and conduct of the visit. He appreciates the openness and willingness to engage that he encountered in his meetings. He would also like to thank the country office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the valuable support received in the preparation and conduct of the visit.

2. The aim of the visit was to examine the level of protection of the right to life in Honduras, particularly the legal framework and measures in place to prevent attacks on the life, security and physical integrity of individuals, and to ensure justice and accountability for such violations. The Special Rapporteur viewed the visit as particularly important in view of the fact that Honduras had one of the highest homicide rates in the world.

3. During his visit, the Special Rapporteur visited Tegucigalpa and San Pedro Sula and met with numerous officials of the federal and state Governments. At the federal level, he met with authorities from the Office of the Presidency; Ministry of Foreign Affairs, Ministry of Human Rights, Justice, Government and Decentralization; Ministry of Security; Ministry of Defence; Supreme Court of Justice; Public Prosecutor's Office; National Congress, including the committees on justice and human rights and on citizen security; national police; armed forces; National Human Rights Commission and the national preventive mechanism. He also visited the National Penitentiary and the detention centre of the Second Tactical Infantry Battalion, both in Tegucigalpa. In San Pedro Sula, he held meetings with the Governor of the Department of Cortes and the Vice-Mayor of San Pedro Sula and visited the Returnee Migrant Care Centre. He also met with members of the United Nations country team, academia and civil society organizations.

4. The present report focuses on the situation as it was during the visit, although some specific references are made to subsequent developments. The report was sent to the Government for comments on 14 February 2017 and was completed on 28 March 2017.

II. Background

5. In 1963, a military coup in Honduras led to a succession of military Governments that held power almost uninterruptedly until 1981. Democratic Governments ruled until June 2009, when an attempt to hold a ballot to reform the Honduran political process led to the ousting of the democratically elected President, Manuel Zelaya. The international community unanimously condemned the coup, but the Honduran Supreme Court ruled the proceedings to be legal. Reports of human rights abuses against supporters of the deposed President rocketed after the coup, when the de facto Government suspended civil liberties and security forces responded to anti-coup demonstrations with excessive force, causing several deaths and injuries and leading to thousands of arbitrary detentions. Elected President Porfirio Lobo established a truth and reconciliation commission in 2010 to examine the events that had occurred before and after the coup. The commission documented 20 cases of excessive use of force and killings by security forces and set out 84 recommendations. However, little progress has been made in prosecuting those abuses.[1]

6. A series of corruption scandals involving the Government and political parties gave rise in 2015 to a massive anti-corruption movement known as "*los indignados*" (the outraged), whose supporters demanded the establishment of an international commission with investigatory and prosecutorial powers to address crimes and corruption by government officials. In response, the Government announced an initiative in conjunction with the Organization of American States to reform the justice system and strengthen the independence of the judicial branch, which began in April 2016. The announcement of the

[1] See A/HRC/32/35 Add. 4.

creation of the Mission to Support the Fight against Corruption and Impunity in Honduras did not meet the expectations of the "*indignados*" movement.[2]

III. Legal and institutional framework for the protection of human rights

A. Legal framework

7. The Honduran Constitution guarantees as inviolable the rights to life, dignity, physical, moral and mental integrity, and the right not to be subjected to torture or to cruel inhuman or degrading treatment. It also guarantees freedom of expression, movement, speech, thought, religion, assembly and association, and recognizes the writ of habeas corpus and the remedy of *amparo*. The Constitution provides for the creation of the National Human Rights Commission to guarantee the rights and freedoms recognized therein. Under the Constitution, international treaties ratified by the State form part of domestic law as soon as they enter into force, and shall prevail in case of conflict with domestic law.[3]

8. The Honduran Criminal Code was amended in 2011 to define the offences of torture, femicide, hate crimes against women and lesbian, gay, bisexual and transgender persons, incitement to hatred and discrimination through the media. A further amendment in 2012 defined enforced disappearance as a specific offence.

9. In April 2015, the Congress enacted a law to protect human rights defenders, journalists and legal practitioners that led to the creation of a national system of protection, as described in section VII.D below.

B. Role of the National Human Rights Commission

10. The National Human Rights Commission is mandated to receive complaints for human rights violations and provide recommendations to relevant authorities. Its presence is well established throughout the country's 18 departments. Critics have noted the scarce budget of the Commission and the need to improve its independence and internal selection process. In 2011, the Commission was downgraded to B status by the Global Alliance of National Human Rights Institutions.

11. In view of its mandate, the National Human Rights Commission is ideally placed to lead policies in Honduras to better protect the right to life. Analysing developments in the country through the perspective of ensuring better protection for that right in a proactive way should be its main priority. During the visit, it was difficult to see concrete evidence of a close and systematic engagement in this field by the Commission. This is an underutilized resource in the struggle for the better protection of the right to life in Honduras.

C. Human rights action plan and monitoring mechanisms

12. Honduras led a process of consultation to design and adopt its Public Policy and National Action Plan on Human Rights 2013-2022, which transforms into strategic action recommendations from civil society, the human rights treaty bodies and the truth and reconciliation commission. The action plan aims to mainstream a human rights perspective into all State actions.

13. Authorities informed the Special Rapporteur about the creation of the Observatory on Human Rights to monitor the implementation of the action plan and to assess progress

[2] See www.amnesty.org/en/countries/americas/honduras/report-honduras/.

[3] See www.conaprev.gob.hn/index.php/biblioteca-virtual-pdf/send/19-leyes-de-interes/992-constitucion-de-la-republica-de-honduras-actualizada-2014.

on human rights issues. They also informed him about the establishment of a system to monitor implementation of recommendations from international and regional human rights protection mechanisms. This is a positive and welcomed initiative.

D. University Observatory on Violence

14. The Special Rapporteur was impressed with the quality and standing of the work of the Observatory on Violence of the Universidad Autónoma de Honduras. Its statistics are used widely and provide an accurate account of the situation of violence in the country, which is unavailable from other public institutions. The observatory is a national asset and should be treated as such. Its independence should be closely guarded.

IV. Violence in society

15. Violence and insecurity are serious problems that face Honduran society, with major implications for the enjoyment and effective exercise of human rights. Violence grew exponentially since the early 2000s, when the country took on a bigger role in the drug routes from South to North America, which coincided with the infiltration of organized criminal groups and the expansion of gang activity. Following the 2009 coup, societal violence took on bigger proportions and the homicide rate in Honduras became among the highest in the region and the world. According to the Global Study on Homicide,[4] in 2012, Honduras had the highest crime rate in the world, with an annual homicide rate of 90.4 per 100,000 inhabitants. According to the Observatory on Violence, homicide rates remained the highest in the world from 2011 to 2013, before starting to fall, from 79 per 100,000 inhabitants in 2013 to 71.4 in November 2015 and to 60.0 by early 2016.[5]

16. From the discussions the Special Rapporteur had during the visit, violence appears to be the result of several factors, many of them systemic and linked regionally beyond the borders of the country such as gang activity; organized crime; drug trafficking; the arms trade; corruption and extortion; ineffective law enforcement; lack of accountability for crimes against life; and deep and systemic poverty, unemployment, inequality and lack of opportunities for the population. The atmosphere of insecurity is compounded by the increasing militarization of public security and concomitant episodes of excessive use of force by members of the police force, military police and armed forces, sometimes in collusion with organized crime.

17. Although it is difficult to obtain figures, the Special Rapporteur was told that disappearances were also a common occurrence.

18. By all accounts, incidences of violence have gone down to some extent since 2013 but remain at an alarming level. Although it is difficult to pinpoint the exact causes for the decline, it was mentioned during the Special Rapporteur's visit that it could be due to the fact that leaders of gangs had been captured or extradited; the increased teamwork within law enforcement; the role of the military in law enforcement; steps taken against corruption in the police; greater investigative capacity in the police and the prosecution services; greater technological abilities on the part of law enforcement; and some successes in the fight against corruption. This may not tell the full picture, and there is ample room for further study of the causes of the apparent decline.

A. Situation in San Pedro Sula

19. The city of San Pedro Sula, located in the north-west corner of Honduras, grew exponentially in the late nineteenth century when foreign companies received land and tax exemptions to settle in the region, leading to the arrival of thousands of Honduran workers.

[4] Available from www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

[5] See Observatory on Violence, National Bulletin No. 40 (February 2016), available from www.iudpas.org/pdf/Boletines/Nacional/NEd40EneDic2015.pdf.

The city soon become the country's manufacturing and commercial hub and currently generates two-thirds of its gross domestic product.

20. In recent years, San Pedro Sula has become a major operational and strategic distribution point in the illegal drug trade. Infiltration of organized crime is compounded by the increased presence of brutal street gangs. As a result, the city has seen a surge in violence and homicides, becoming the city with the highest homicide rate in the world between 2011 and 2014.[6] Violence has led to substantial internal displacement and migration abroad.

B. Police abuse and corruption

21. There is widespread acceptance that the police has over many years not fulfilled its function as it should have. In many cases, it has not addressed the problem of crime, including violent crime, and has in fact become part of the problem.

22. Police corruption further affects the atmosphere of insecurity, with reports of police elements being involved in soliciting bribes, extortion, murder and acting in collusion with gangs and organized criminal groups. In at least five cases, police officers have been implicated in death squad-style killings of gang members. During the visit, the Special Rapporteur encountered numerous reports of killings by police, military police and military officers. According to the Observatory on Violence, police killed 285 people between 2012 and 2015. Not all of those cases were unjustified, but they are often not properly investigated. Impunity is the rule. Investigations and effective prosecution for the crimes seems to be limited to only a few high-profile cases or cases in which the families of the victims had to push the investigations or assist in obtaining evidence.

C. Gangs and organized criminal groups

23. Presence of street gangs known as *maras* is rampant in Honduras, especially in big cities such as Tegucigalpa and San Pedro Sula. They are mostly descendants of gangs formed in Los Angeles and deported in the 1990s, including groups such as Mara Salvatrucha and Barrio 18. *Maras* are involved in many criminal activities, such as drug trafficking and extortion, and operate with brutal violence, controlling the lives of residents in gang-controlled neighbourhoods. Local populations are forced to pay "taxes" to gangs in exchange for security in what is referred as "tax war". During his visit, the Special Rapporteur received reports of children and young people being forced to collect those "taxes" or sell drugs. Those who refuse are often killed, leaving children with only two options: join gang activity or migrate, which in turn exposes them to a new series of risks. People involved in transportation and business owners are subject to similar treatment. Young women are forced to carry drugs and guns and are often raped, tortured or killed in gang disputes.

24. Owing to lack of control in certain areas, corruption or lack of political will, State security forces offer limited or no protection to these communities. Authorities are not exempt from the challenges and risks posed by organized crime. For example, the Chief of the Attorney General's Directorate for Combating Drug Trafficking was shot dead in 2009 by suspected cartel hitmen.

25. It should be emphasized that the State remains responsible for the protection of all citizens from threats to their lives and security and, if it does not take reasonable measures in that regard, the State is in violation of the right to life.

[6] See the 2014 annual ranking of the 50 most violent cities, available in Spanish from www.seguridadjusticiaypaz.org.mx/biblioteca/download/8-prensa/198-las-50-ciudades-mas-violentas-del-mundo-2014.

D. Personal use of firearms

26. Violence is also heightened by the extensive personal use of firearms, facilitated by highly permissive legislation on arm possession and the rampant proliferation of private security companies. In response to high violence rates in the country, people have resorted to buying guns and hiring the services of private security companies.

27. The Law on the Control of Firearms, Ammunition, Explosives and other Similar Items allows anyone to request one or more licenses to possess and carry firearms. The right to register up to five firearms was recently reduced to three. Estimates put the number of firearms in circulation in Honduras at 800,000 to 1,000,000, of which only 282,000 are registered.[7] It is evident that this permissive regulation has contributed to the spiralling violence in the country and facilitated access to weaponry by gangs, organized criminal groups and private security companies. A new draft law on gun control is currently being considered by the National Congress, with a view to tightening regulations and access to guns.

E. Private security companies

28. In a report, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination indicated that there were 700 private security companies registered in Honduras, as well as 60,000 private guards, many of whom were illegal and unregistered. Given that there were 14,000 police officers in Honduras, the ratio of private security personnel to police was almost 5 to 1.[8]

29. The provision of private security services is subject to the Organic Law of the National Police and the Regulations for the Control of Private Security Services. The law entrusts the Ministry of Security to authorize, regulate and supervise private security companies and creates a control unit for private security services to control and monitor these companies. However, the authorities do not implement that mandate effectively. There are insufficient vetting processes for the licensing of such companies and their agents, inadequate supervision of their operations and a lack of control of the weapons used and the training provided to private security agents. Many companies are reportedly owned by or constituted of agents who are former military or police officers, including officers suspected of past human rights violations. In addition, while the existing framework regulates the types of weapons that companies may use, it does not set the conditions for the use of arms and force. Moreover, violations of the Law and the Regulations do not seem to result in the revocation of licenses or sanctions.

30. It is clear that in many cases private security providers play a positive role, for which the police is currently not equipped. At the same time, they can and in some cases do form part of the problem of excessive violence in society. The legal framework within which they operate appears to be insufficient. The sector needs to be better regulated and controlled. According to information from the Government received subsequent to the visit, the Congress is considering a draft law on private security services aiming at reinforcing regulations and forbidding certain public officials to hold ownership of private security companies. Other sources indicated that the law had been pending approval for two years and didn't preclude anyone with a criminal or disciplinary record from being a member of such companies.

31. Private security staff have been linked to numerous attacks and killings, for example, in areas of high social conflict. However, in a study, it was found that during investigations police and prosecutors in Bajo Aguán routinely failed to take adequate steps to ascertain the possible involvement of private security agents in serious crimes, including

[7] See Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras* (December 2015), p. 27. Available from www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf.

[8] See A/HRC/24/45/Add.1, para. 14.

by requisitioning work records of staff on duty at a given time or by making weapons inventories of private security companies.[9]

32. The State has the primary responsibility to protect individuals from the depravation of life by non-State actors and to bring perpetrators to justice. While private security agents are not public officials, they are still bound by domestic regulations and are obliged to respect the rights of citizens.

V. Violations of the right to life of affected groups

33. The persons targeted with violence and intimidation by State and criminal actors in retaliation for their work include human rights defenders; indigenous, peasant and Afrodescendent leaders involved in land disputes; lesbian, gay, bisexual and transgender activists; justice operators; and journalists.

34. From 2006 to 2015, the Inter-American Commission on Human Rights granted 49 precautionary measures for persons at imminent risk in Honduras. Beneficiaries between 2009 and 2015 included 34 per cent of peasants, 17 per cent of journalists, 14 per cent of indigenous persons, 7 per cent of environmental rights defenders and 6 per cent of lesbian, gay, bisexual and transgender persons. According to a study conducted in 2016 by civil society organizations, 99 per cent of beneficiaries considered that those measures had not granted them security because the protection mechanisms offered by the government had been inadequate or ineffectively implemented.

35. The Special Rapporteur is deeply concerned at the failure of the authorities to effectively implement the precautionary measures of the Inter-American Commission on Human Rights and to provide protection to members of these targeted groups.

A. Human rights defenders

36. Human rights defenders are attacked by sectors opposed to their work and by those they have exposed for human rights violations. From 2010 to 2015, there were 22 murders, 2 disappearances and 15 kidnappings of human rights defenders. In total, 14 human rights defenders benefiting from the precautionary measures of the Inter-American Commission on Human Rights were killed.[10]

37. During his visit, the Special Rapporteur received many reports about the lack of investigation into killings, threats and violence against human rights defenders. Civil society organizations have also reported the ineffectiveness of the Public Prosecutor's Office and the Honduran judiciary in responding to these attacks.[11] More than 90 per cent of cases remain unpunished.[12]

38. Violence against human rights defenders is also underreported. Reports have included estimates that, of the more than 109 cases of human and environmental rights defenders killed between 2010 and 2015, only 8 were reported publicly.[13]

39. A case brought to the attention of the Special Rapporteur was the killing two months before his visit of world-renowned indigenous and land rights defender, and beneficiary of precautionary measures, Berta Cáceres. An investigation by the Public Prosecutor's Office led to the detention of eight persons, including an active mayor of the armed forces, a

[9] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan.

[10] See *Situation of Human Rights in Honduras*, pp. 28-29.

[11] See www.omct.org/files/2016/05/23748/honduras_030516_eng.pdf; and Amnesty International report No. AMR37/2193/2015, available in Spanish from www.amnesty.org/en/documents/amr37/2193/2015/es/.

[12] See Global Witness, "¿Cuántos más?" (2015), available from www.globalwitness.org/en/campaigns/environmental-activists/cuantos-mas, p. 16.

[13] See www.devp.org/en/blog/honduras-impunity-murders-human-and-land-rights-defenders.

former lieutenant and former private security guard at the hydroelectric company — against which Ms. Caceres had led a legal battle — and a high-ranking employee at the hydroelectric company. The Government informed the Special Rapporteur that investigations regarding the masterminds of the crime were ongoing. Many feared, however, that the prosecutions would not lead to effective convictions and that the masterminds of the crime would remain unpunished. The Special Rapporteur was informed that the family and colleagues of Ms. Cáceres had demanded the establishment of an independent international mechanism to assist in the investigation of her death. Concerns grew further when Ms. Cáceres' case file was stolen in late September 2016 from a car driven by a Supreme Court magistrate, which prompted the Mission to Support the Fight against Corruption and Impunity in Honduras to demand an urgent investigation into the robbery and condemned the serious irresponsible action of the judge concerned.[14] The case file had reportedly included evidence against several suspects.[15] The file was rebuilt on the basis of copies kept in court. Sensitive information about Ms. Caceres legal case was also stolen from the offices of the Broad Movement for Justice and Dignity. The Special Rapporteur continues to follow the case.

B. Journalists and media workers

40. The general context of violence against journalists and media workers in Honduras worsened after the 2009 coup d'état and persists to date. Journalists are victims of physical assaults, attacks, death threats and homicide. In total, 36 journalists were killed in Honduras between 2010 and 2014.[16] Although estimates vary regarding the exact number, all show a dramatic increase in homicides in 2010 compared with previous years.[17] The National Human Rights Commission reported that 43 journalists had been murdered between 2010 and 2014. While numbers have been declining since 2011, they have not fallen back to pre-coup levels.[18]

41. Authorities fail to investigate effectively and prosecute most crimes against journalists. In February 2015, the National Human Rights Commission reported that the lack of effective investigations affected 96 per cent of the cases and that authorities had handed down convictions in only 4 per cent of the 50 cases in which media workers had been killed between 2003 and 2014.[19]

42. The lack of accountability for crimes against journalists impedes the establishment of whether the crimes are connected with their work and thus promotes the notion that journalists are simply victims of generalized violence.

43. Since 2013, the Section on Violent Deaths of Persons from Vulnerable Groups of the Office of the Special Prosecutor for Crimes against Life deals with cases of violence against journalists and other affected groups, a responsibility previously assigned to the Special Prosecutor for Human Rights Defenders. The transfer reportedly led to a reduced focus on the particularities of violence against journalists.[20]

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[14] See www.oas.org/en/media_center/press_release.asp?sCodigo=E-102/16.

[15] See www.amnesty.ca/our-work/individuals-risk/berta-caceres-and-human-rights-defenders-honduras.

[16] Data from the Section on Violent Deaths of Persons from Vulnerable Groups, provided by the Government.

[17] See PEN International, *Journalism in the Shadow of Impunity* (Toronto and London, 2014), p. 19. Available from www.pen-international.org/wp-content/uploads/2014/01/Honduras-Journalism-in-the-Shadow-of-Impunity1.pdf.

[18] See Human Rights Watch, *World Report 2016* (New York, 2015), p. 293. Available from www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf.

[19] See *Situation of Human Rights in Honduras*, p. 83, and article by *Teleprensa*, available in Spanish from www.teleprensa.com/honduras/11-personas-vinculadas-a-los-medios-de-comunicacion-murieron-en-circunstancias-violentas-en-honduras.html.

[20] See *Journalism in the Shadow of Impunity*, p. 29.

C. Lesbian, gay, bisexual and transgender persons

44. The Special Rapporteur received reports of a high number of attacks and killings against lesbian, gay, bisexual and transgender persons. In total, 123 homicides were registered between 2010 and 2014.[21]

45. Of the 216 cases registered by civil society organizations between 2004 and 2015, 103 victims were gay, 78 transgender and 13 lesbian.[22]

46. The Section on Violent Deaths of Persons from Vulnerable Groups investigates such deaths. The Public Prosecutor's Office informed the Special Rapporteur that, of the 232 killings registered from 2008 to March 2017, investigations had led to 48 prosecutions, 19 convictions and 9 acquittals.

47. While the Special Rapporteur welcomes the amendments to the Criminal Code criminalizing hatred on the basis of sexual orientation or gender identity, he is concerned to learn that investigations into deaths of lesbian, gay, bisexual and transgender persons continue to be influenced by discriminatory stereotypes,[23] and that a fraction (20.6 per cent) of murder cases appear to lead to prosecutions.

D. Justice operators

48. Justice operators, comprising lawyers and members of the judiciary, are frequently threatened, attacked or killed as a result of their profession. The Observatory on Violence registered 115 homicides between January 2009 and December 2015. Killings are mainly concentrated in the Central District and San Pedro Sula (66 per cent). In 67.8 per cent of cases, killings are attributable to organized crime or hitmen.[24]

49. Five prosecutors were killed between 2009 and 2015:[25] the Chief of the Directorate for Combating Drug Trafficking; the Chief Prosecutor of the Anti-Money Laundering Unit;[26] a leading criminal investigator on car thefts;[27] the Coordinator of the Office of the Special Prosecutor for Crimes against Life; and the Special Prosecutor for environmental protection.[28] The Government reported that one of the murders had been prosecuted, while investigations continued regarding the masterminds of the crimes. Twelve judges were killed in the same period.[29]

50. Attacks and impunity for these crimes have a chilling effect on members of the judiciary, who will be less likely to investigate and adjudicate politically sensitive cases owing to fear of retaliation, thus reproducing existing impunity patterns, sanctioning future crimes and reducing further public trust in the judicial system.

51. In total, 96 lawyers were killed between 2009 and 2015.[30] The Government noted that several criminal cases had been opened, while other reports indicated that, of the 53 homicides registered between 2010 and 2012, more than 95 per cent had gone unpunished.[31] As lawyers play an important role in defending human rights and

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[21] Data from the Office of the Special Prosecutor for Crimes against Life provided by the Government.

[22] See Asociación para una Vida Mejor de Personas Infectas y Afectadas por el VIH-SIDA en Honduras, *Informe sobre muertes violentas por crímenes de odio motivados por orientación sexual e identidad de género en Honduras* (Tegucigalpa, December 2015), p. 25. Available in Spanish from www.ci-romero.de/fileadmin/media/informieren-lacnder/honduras/INFORME_2015_CRIMENES_D%_ODIO_APUVIMEH.pdf.

[23] See www.oas.org/en/iachr/media_center/preleases/2014/146a.asp.

[24] Observatory on Violence, Special Bulletin No. 45 (January 2016), pp. 1-2. Available from www.iudpas.org/pdf/Boletines/Especiales/BEP_E045.pdf.

[25] Ibid, p. 3.

[26] See www.insightcrime.org/news-briefs/honduras-top-anti-money-laundering-prosecutor-murdered.

[27] See www.theguardian.com/world/2013/may/15/san-pedro-sula-honduras-most-violent.

[28] See www.cejil.org/es/cejil-condena-nuevos-asesinatos-fiscales-honduras.

[29] See Observatory on Violence, Special Bulletin No. 45, p. 3.

[30] Ibid.

[31] See *Journalism in the Shadow of Impunity*, p. 29.

strengthening the rule of law, impunity thrives when they are persecuted as a result of their profession.

E. Indigenous and land rights defenders: situation in Bajo Aguán

52. Indigenous leaders, land right defenders and peasants are also affected disproportionally by attacks, murder, intimidation and threats, particularly those who defend their territories and natural resources in the context of development projects. Serious human rights violations have been attributed to private security guards hired by landholding companies, the police and the military.

53. Reportedly, a total of 111 environmental activists, particularly in indigenous communities, were murdered between 2002 and 2014, making Honduras the most dangerous country in the world for land and environmental defenders in that period.[32]

54. The Tolupán indigenous community is among the most affected by violence, with about 100 murders over the past decade, most of which remain unpunished.[33] Members of the independent indigenous Lenca movement for peace, which opposes the construction of hydroelectric projects on the territory of the Lenca people, have endured a series of assaults, threats and killings since 2013.[34] The Honduras civil council of popular and indigenous organizations, an indigenous Lenca organization supporting environmental and indigenous rights, has experienced persisting violence. Attacks intensified since the murder of their co-founder, Berta Caceres, after which the Inter-American Commission on Human Rights granted them precautionary measures. The national authorities have failed to implement the measures. Another member of the council was killed in March 2016[35] and two suffered attempted murders in May 2016.[36]

55. Violence and threats against indigenous communities take place in the context of land incursions by drug traffickers, for example, in the Garífuna and Tolupan communities.[37] Law enforcement officials also exert violence in this context. In May 2012, four members of the Miskito community of Ahuas died and others were wounded in an anti-drug operation conducted by officials from Honduras and the United States of America. In December 2015, two young Garífuna men were killed by military personnel who had suspected them of being drug traffickers.[38]

56. The Government has established the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage. However, complaints filed by community members are not effectively investigated or prosecuted.[39]

Bajo Aguán

57. The Special Rapporteur received many reports about the numerous attacks against peasants and land right defenders in Bajo Aguán by private security agents and security forces. In May 2014, the Inter-American Commission on Human Rights granted precautionary measures to 123 defenders in the region, but their lives remained at risk.[40] The National Human Rights Commission reported that 92 people had been killed between 2009 and 2012, most of whom had been active members of peasant organizations.[41] In

[32] See "¿Cuántos más?", p. 16.
[33] See A/HRC/33/42/Add. 2, para. 22.
[34] See A/HRC/32/53, case HDN 1/2016; and *Situation of Human Rights in Honduras*, pp. 39-40 and 42.
[35] See A/HRC/33/32, case HDN 3/2016.
[36] See www.fidh.org/es/temas/defensores-de-derechos-humanos/honduras-situacion-de-los-defensores-de-derechos-humanos.
[37] See *Situation of Human Rights in Honduras*, pp. 44-45.
[38] A/HRC/33/42/Add. 2, para. 26
[39] See *Situation of Human Rights in Honduras*, p. 46.
[40] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22828 (available in Spanish only).
[41] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan.

2015, the Government reported that 127 persons had died since the land conflict started in 2009, including farmers, security guards and others.[42] In 2016 alone, 11 human rights defenders had been killed and 9 left the country owing to attacks and intimidation.[43] The Secretary of Security reported three such killings in 2016.

58. In most cases, the perpetrators have not been identified or prosecuted. In a 2014 report on impunity in the Bajo Aguán, it was noted that prosecutors and police had failed to perform the most basic investigative steps necessary to identify and prosecute suspects and had not followed criminal forensic procedures to preserve the crime scene, collect evidence, conduct autopsies and search for the missing.[44]

59. While the Public Prosecutor's Office established in 2014 the Special Unit for the investigation of violent deaths in Bajo Aguán to address a backlog of 147 pending cases, impunity levels remain alarmingly high and transparency concerns persist.[45]

F. Refugees, asylum seekers and internally displaced persons

60. The impact of gang violence and organized crime in certain regions of the country is leading to the forced migration of thousands of persons who try to avoid extortion, forced integration to gangs, sexual violence and killings.

61. According to the Internal Displacement Monitoring Centre, at the end of 2014, there were an estimated 29,400 internally displaced persons in Honduras.[46] The Office of the United Nations High Commissioner for Refugees (UNHCR) reported that, between 2004 and 2014, 174,000 persons had been affected by internal displacement owing to violence.[47] In a 2015 study, it was reported that persecution and insecurity had been the determining factors of displacement for 67.9 per cent of internally displaced households, particularly threat, murder, injury, extortion, insecurity and sexual violence.[48]

62. The impact of violence is also evident in the growing number of Honduran asylum seekers and refugees in neighbouring countries, Mexico and the United States. UNHCR reported a 1,153 per cent increase in the number of asylum applications from — 810 to 10,146 — between 2012 and 2014, and a 59 per cent increase in the number of refugees, from 2,613 to 4,159, in the same period.[49]

63. Migrants on route to northern countries face numerous risks and many end up as victims of trafficking networks that subject them to kidnapping, torture, mutilation or murder. In recent years, around 400 Honduran migrants were reported missing on their way to the United States.[50] Three mass graves were found in Mexico between 2010 and 2012, which contained the remains of dozens of migrants who had been in transit including from Honduras. The relatives of the victims reported delays in the repatriation of the remains and difficulties in gaining access to justice.

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[42] See *Situation of Human Rights in Honduras*, p. 69.

[43] See www.fidh.org/es/temas/defensores-de-derechos-humanos/honduras-asesinato-de-fernando-aleman-banegas-hijo-de-la-defensora; and Amnesty International, report No. AMR37/5015/2016, available from www.amnesty.org/en/documents/amr37/5015/2016/en/.

[44] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan, pp. 3, 21 and 57.

[45] See www.omct.org/es/human-rights-defenders/urgent-interventions/honduras/2016/04/d23697/.

[46] See Internal Displacement Monitoring Centre, *Global Overview 2015* (Geneva, May 2015), pp. 16-19. Available from www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

[47] See UNHCR, Protection and Solutions Strategy for the Northern Triangle of Central America 2016-2018 (Geneva), p. 6. Available from http://reporting.unhcr.org/sites/default/files/Protection%20and%20Solutions%20Strategy%20for%20the%20Northern%20Triangle%20of%20Central%20America%202016-2018.pdf.

[48] See A/HRC/32/25/Add.4, p. 7.

[49] See *Situation of Human Rights in Honduras*, pp. 64-65.

[50] Ibid., para. 146.

64. Many migrants are deported to Honduras while in transit or on arrival at their country of destination, even those who face serious risks back home. UNHCR reported that 249,618 Hondurans had been deported between 2011 and 2014.[51] In the United Sates alone, 20,309 Hondurans were deported in 2015[52] and 10,468 unaccompanied migrant children were apprehended in 2016.[53] On their return to Honduras, many of the deportees face the same perils they had attempted to elude. As at 2014, 35 returnees had been killed soon after arriving in Honduras.[54] The Special Rapporteur on the human rights of internally displaced persons received confirmation from United States officials that criminal activity in their home countries was not considered grounds for individuals to claim asylum.[55]

65. The Special Rapporteur was informed about the precarious conditions of detention of Hondurans deportees held in United States migration detention centres and was particularly alarmed at reports of deportees detained in cold cells referred as "iceboxes". He was also informed that Hondurans were prevented from gaining access to the relevant authorities to process their asylum requests or were deported before they could get a chance to submit them. In total, 80 per cent of Hondurans were placed in expedited removal procedures in which asylum claims were not properly considered.[56] Civil society organizations have also noted the precarious conditions and abusive treatment received by Honduran deportees in Mexican detention centres and the lack of information about asylum procedures offered to migrants victims of violence.[57] Mexican authorities also return migrants in immediate danger.

66. The Special Rapporteur visited the Returnee Migrant Care Centre in San Pedro Sula and was impressed by the commitment of its staff and the quality of the support provided to Hondurans returnees before being transferred to their hometowns. While he encourages the Government to maintain and support this much needed initiative, he warns about the need to establish medium- and long-term measures to support the returnees' reinsertion in their communities and to guarantee their safety and integrity, especially to those at risk of violence.

67. To respond to this critical situation, in 2013 the Government established the Inter-institutional Commission for the Forced Displacement of Persons, and is currently working on a draft law on migration to regulate the situation of refugees, asylum seekers and stateless persons, and a draft law to protect and assist displaced persons and prevent forced displacement.

G. Women

68. Women in Honduras suffer high levels of violence, including murder, domestic violence and rape. As noted by the Special Rapporteur on violence against women, its causes and consequences, violence against women is widespread and systematic and compounded by a climate of fear in the public and private spheres.[58] A total of 4,013 women were killed between 2005 and 2014, and 478 femicides were registered in 2015.[59] Reports indicate a 263.4 per cent increase in femicides between 2005 (175 cases) and 2013

[51] UNHCR, p. 5.

[52] See www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf.

[53] See www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016.

[54] See A/HRC/32/35/Add. 4.

[55] Ibid.

[56] See www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk.

[57] See Casa Alianza, "Monthly report: September 2016", p. 20. Available in Spanish from www.casa-alianza.org.hn/images/documentos/CAH.2016/01.Infor.Mensuales/09.%20informe%20mensual%20septiembre%202016_cah.pdf.

[58] See A/HRC/29/27/Add.1, para. 9.

[59] See Observatory on Violence, Bulletin on Women's Violent Deaths and Femicide No. 10, (January-December 2014), p. 1, available from www.iudpas.org/pdf/Boletines/Genero/MMEd10EneDic2014.pdf; and National Bulletin No. 40, p. 3.

(636 cases),[60] and a 281 per cent increase in disappearances of women between 2008 (91 cases) and 2013 (347 cases).[61]

69. The situation is compounded by gang activity. Women are often killed to settle gang disputes, or subjected to rape, torture and mutilation.

70. The Special Rapporteur on violence against women noted a culture of impunity and lack of accountability for these crimes. Despite the establishment in 2013 of femicide as a specific offence, very few cases have been tried under this offence.[62]

71. In 2013, the Unit for the Investigation of Crimes against Women's Lives of the Office of the Special Prosecutor for Women, which handled femicides and violent deaths of women, was transferred to the Section on Investigation of Violent Deaths of Women of the Office of the Special Prosecutor for Crimes against Life to ensure a gender dimension to investigations. The Office of the Special Prosecutor for Crimes against Life adopted a manual for such investigations and trained justice operators nationally. Critics voiced concern that this transfer would result in a loss of a gender perspective for criminal investigations.[63]

H. Children and young people

72. The context of violence and insecurity in Honduras puts children and adolescents in a particularly vulnerable position. In total 21,710 children suffered violent deaths between January 2010 and March 2016.[64] A civil society organization reported 79.26 deaths per month between January 2014 and December 2015.[65] While in most cases the perpetrators remained unidentified and unpunished, reports indicated that security forces had been involved in the killing of at least seven children and adolescents between June and December 2015.[66]

73. Children living in areas under the influence of *maras* are placed in particular distress as they are both harassed, threatened and attacked by gang members, and stigmatized, discriminated against and mistreated by law enforcement forces, who often regard them as potential criminals or gang members.[67]

74. Young students are also frequently targets of violence. At least 1,183 students were killed in Honduras between 2010 and 2016, of whom 52 per cent had been secondary school students and 13.5 per cent had been university students.[68] Young people are particularly targeted for their participation in protests and other forms of public demonstrations. In March 2015, Honduran society was shocked to learn about the killing of four young people who had participated in student protests. One of the victims, a 13-year-old girl, had been seen expressing her demands on television days before her body was found in a bag with signs of torture.

75. Civil society organizations reported a worrying increase in cases where bodies were found with signs of torture, strangled to death, in plastic bags, tied with ropes or wrapped in

[60] See *Situation of Human Rights in Honduras*, p. 52.
[61] See A/HRC/29/27/Add.1, para. 19.
[62] Ibid, paras. 9 and 76.
[63] See United Nations Development Programme, United Nations Entity for Gender Equality and the Empowerment of Women and USAID, *Violencia y seguridad ciudadana: una mirada desde la perspectiva de género* (Tegucigalpa, 2015), available in Spanish from hn.undp.org/content/dam/honduras/docs/publicaciones/diagnosticogeneroyviolencia.pdf.
[64] See Observatory on Violence, Special Bulletin No. 42 (June 2016), p. 1. Available from www.iudpas.org/pdf/Boletines/Especiales/BEP_Ed42.pdf.
[65] See Casa Alianza, "Monthly report: December 2016", p. 31. Available in Spanish from www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Informes.Mensuales.2015/12.%20informe%20mensual%20diciembre%202015_cah.pdf.
[66] Ibid, p. 33.
[67] See *Situation of Human Rights in Honduras*, p. 48.
[68] See Observatory on Violence, Special Bulletin No. 42, p. 1.

sheets.[69] During the visit, the Special Rapporteur received numerous and concerning reports about the existence of extermination squads that targeted children. The actions of these squads were reportedly motivated by considerations of "social cleansing".

VI. Impunity for violations of the right to life

76. Impunity is a widespread problem in Honduras that has a particular affect on violations of the right to life. Lack of resources and technical capacity, intimidation and killings of justice operators, lack of independence of the judiciary, corruption of public officials and infiltration by organized crime are substantial barriers to obtaining justice and have virtually stalled the judicial system.

77. The Special Rapporteur received information about corruption, infiltration and interference with the judiciary, including in the handling of cases and in the appointment or dismissal of judges and prosecutors. Interest groups or individuals often bribe, threaten or attack judges to influence their work. Lack of independence and corruption within the judiciary hampers the institutional capacity of the criminal justice system to respond effectively to human rights violations and ensure accountability.

78. In addition, the country's prosecutorial services have been marred by accusations of inefficiency and lack of will to investigate criminal cases, particularly high profile ones. Inadequate forensic protocols and services, overreliance on witness testimonies in judicial procedures, and police refusal to carry out crucial investigative tasks that prosecutors assign to them[70] further obstructs the administration of justice and hinders accountability.

79. As a result of these shortcomings, impunity affects 97 per cent of murder cases in Honduras.[71] The level of impunity in connection to violations of the right to life is alarming and one of the determinant factors in the spiralling of violence, as the prospect of prosecution is not an effective deterrent of crime. It also frustrates expectations and chances for justice and reparation for victims of human rights violations.

80. The absence of accountability sends a message to society that violence is tolerated by the State and undermines the public's trust in the authorities. The lack of public confidence in the judicial system and its institutional capacity to obtain justice for victims is also likely to exacerbate the underreporting of crimes. Some reports indicate that only 20 per cent of all crimes are reported in Honduras, which is alarmingly low.[72]

81. The Government informed the Special Rapporteur that measures had been adopted to address impunity and corruption, including the establishment of the Mission to Support the Fight against Corruption and Impunity in Honduras and a collaboration agreement with the organization Transparency International for the promotion of transparency, combating of corruption and strengthening of integrity systems.

82. The Special Rapporteur was dismayed to observe the lack of reliable statistics on the number of homicides that led to prosecutions, including of security forces. The lack of reliable figures hinders transparency and exacerbates people's mistrust in institutions.

83. The overly broad interpretation of confidentiality requirements in Honduran criminal procedures — by which police and prosecutors refuse to provide information on the status of investigations to families of victims — also affects transparency, trust and accountability.

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[69] See Casa Alianza, "Annual report: 2014", p. 18. Available from www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Informes.Mensuales.2015/situacin%20de%20derechos%20de%20nios%20nias%20y%20jvenes%20en%20honduras.pdf.

[70] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan, p. 21

[71] See A/HRC/32/35/Add.4, p. 5, and www.amnesty.org/es/countries/americas/honduras/report-honduras/.

[72] See *Journalism in the Shadow of Impunity*, p. 28.

84. States are under the immediate obligation to ensure accountability where there are arbitrary losses of life, including proper investigations. A failure to do so could amount to a breach of the right to life.

VII. State response to violence

A. Legislation in response to gang violence

85. In response to rampant gang violence, the Congress adopted in October 2001 Legislative Decree No. 141-2001 on prevention, rehabilitation and social reintegration, which aimed to address the causes that led individuals to join gangs and to rehabilitate and reintegrate them into society, and created the National Prevention, Rehabilitation and Social Reintegration Programme. In 2003, article 332 of the Criminal Code, on unlawful associations, was amended to criminalize illicit association, as part of an iron-fist (*mano dura*) approach, effectively criminalizing gang membership. It has been criticized for criminalizing also the actions of vulnerable persons coerced into gang membership. In July 2015, the Parliament approved reforms to the penal code, introducing harsher penalties for members of the *maras*, increasing the maximum prison terms for gang leaders from 30 to 50 years and for lower-level members from 20 to 30 years.[73]

B. Police reform

86. There is an important and much needed effort under way to clean up the work and the image of the police and to develop its technical capabilities.

87. Several attempts at cleaning up the national police have taken place since 2011. However, efforts to address endemic corruption and abuses within the police force have made little progress. The most recent purge was initiated in April 2016 with the establishment of the Special Commission for the Process of Purge and Transformation of the National Police, in response to the public outcry when information was published that the higher ranks of the institution had been involved in the killing of the Chief of the Directorate for Combating Drug Trafficking. The Special Commission was given a one year mandate to assess the members of the entire force, starting at the top. By the end of 2016, it had evaluated 4,934 officers and had terminated the contracts of 2,183, mostly (1,949) as part of an internal restructuring effort. However, files relating to 15 officers were referred to the Public Prosecutor's Office for Criminal Investigation by November 2016. In September 2016, the Office established a special unit to support the clean-up process.

88. The clean-up process is ambitious and far-reaching, and in principle a positive step. At the same time, it is important to have a clear legal framework for such an undertaking, including the criteria used to ensure that the system can resist legal and other challenges. A good plan that is poorly implemented can close many doors in the future.

89. The work of the Special Commission is undertaken in parallel with a restructuring of the police, renewed qualification programmes that include training on human rights and the gradual use of force, and a plan to increase the police corps from 14,000 to 26,000 agents by 2019. In addition, a proposed reform to the Organic Law of the National Police and a new Police Career Law were under consideration by the National Congress. A new manual on the use of force was developed in collaboration with the International Committee of the Red Cross, but is not before Congress.

C. Militarization

90. One of the main focuses of the response of the Government to violence has been the militarization of public security through the establishment of a series of new measures and

[73] See A/HRC/32/35/Add.4, p. 15.

entities. Decree 168-2013 of August 2013 provided for the creation of the Military Public Order Police to support the national police in confronting the challenges posed by organized crime, drug trafficking and gang activity. The measure had originally been intended as a short-term emergency response while the national police entered a process of reform and depuration, and murder rates remained high.

91. While the support of the military had been welcomed by certain sectors of society, including members of the national police, many others had raised concern about the expected negative repercussions of the militarization of society and the insufficient legal specification of the functions of the military police and its use of force. The introduction of the military police, although understandable as an emergency response, requires the adoption of clearly defined roles and rules of engagement to prevent abuses by an armed body trained for the conduct of war and not for the provision of citizen security. In his meetings with relevant authorities, the Special Rapporteur was unable to get a clear picture of the legal framework applicable to the use of force by the military police, which is a matter of concern.

92. According to reports from civil society, human rights abuses by the military have increased with the militarization of citizen security. Between 2012 and 2014, agents of the military police were accused of involvement in at least nine killings, more than 20 cases of torture and about 30 illegal arrests. At least 24 soldiers were under investigation in connection with the killings.[74]

93. A special unit within the national police known as TIGRES was created by decree in 2013. The unit is mandated to act in special operations undertaken in the context of high-impact crimes, such as drug trafficking and organized criminal activity. It also supports extradition processes.

94. The government also established the National Force for Inter-institutional Security. It agglomerates several State entities — including the armed forces, the national police, the Public Prosecutor's Office and the judiciary — to coordinate actions aimed at strengthening criminal investigations and prosecution of high-impact crimes. The National Force is currently headed by a military commander. While the Government informed the Rapporteur that the role of the Commander was merely to coordinate the actions of the agencies involved in the National Force, many actors voiced concern that it blurred the separation of powers among the different branches of Government involved in criminal investigations, and more particularly put at risk the independence of the judiciary and of prosecutors involved in these cases.

95. In parallel to those measures, the armed forces implemented the "Guardians of the Nation" programme aimed at providing civic, patriotic and religious education to Honduran children and adolescents to reduce the risk that they might become involved in organized crime or gang activity. The armed forces leads the programme and implements it with the assistance of other actors, such as churches, doctors and psychologists. While it may serve a positive role and offer alternatives, there is also a risk that such a programme could militarize society and worsen the cycle of violence.

D. Reforms to improve criminal investigations and judicial proceedings

96. The Government introduced a process of reform of the Public Prosecutor's Office aimed at modernizing and professionalizing criminal investigations. The Technical Agency of Criminal Investigation, which investigates high-impact crimes, was established in 2015 within the Public Prosecutor's Office to professionalize criminal investigation services, provide specialized training to staff and modernize the office's forensic services and technologies. Although this was a necessary and important reform, it has not been matched with sufficient budget allocation for the performance of its functions.

[74] See *World Report 2016*, p. 292.

97. The Office of the Special Prosecutor for Crimes against Life was established in 2013 to strengthen murder investigations. It is divided into seven sections that absorbed all pre-existing special units involved in investigating deaths, including those that involve human rights, children, women, journalists and common crime. Many critics voiced concern that the reform would dilute the human rights focus in homicide cases.[75]

98. Within the police, and in the context of its cleansing, the much-discredited National Directorate of Criminal Investigation was replaced by the Directorate of Police Investigations, which is expected to have over 1,000 agents and modern criminal investigation technologies.

99. In the judicial system, a 2011 decree established the creation of courts of national jurisdiction for a series of high-impact crimes, including murder, kidnapping and drug trafficking. The aim of that measure was to prevent local judges — who are more prone to intimidation and infiltration by criminal groups — from working on such cases, thus protecting the judges and improving the effectiveness of judicial proceedings.

E. Protection of human rights defenders, journalists, social communicators and justice operators

100. In April 2015, the National Congress adopted the Law on the Protection of Human Rights Defenders, Journalists, Media Workers and Justice Operators to respond to the high levels of violence they endured. The Law established a national protection system aimed at ensuring multisectoral coordination for its enforcement. It provided for the creation of the advisory National Council for the Protection of Human Rights Defenders and a General Directorate, which was given an executive role and mandate to process protection requests from victims, provisional and precautionary measures from the Inter-American System for the protection of human rights, as well as security measures adopted by national courts. It also established a technical committee to conduct risk analyses and adjudicate on protection requests submitted to the General Directorate. In addition, it granted powers to several State institutions to provide protection measures to rights-defenders at risk. In total, 10 million lempiras ($440,140) was allocated to the mechanism.[76] The National Council assesses particular cases of persons at risk. In 2016, it approved a protocol for the transfer of precautionary and provisional measures of the Inter-American System, comprising a series of operating manuals and a methodology for analysing risk. A regulation of the Law was approved in August 2016 by Executive Agreement No. 59-2016.

101. The adoption of the Law and the establishment of the protection mechanism are very much welcomed but must be accompanied by the necessary resources and political will needed for their effective implementation.

VIII. Prisons

102. Very poor conditions, including overcrowding, inadequate nutrition and poor sanitation, are widespread in Honduran prisons, as was witnessed by the Rapporteur during his visit to the National Penitentiary and the detention centre of the Second Tactical Infantry Battalion, both in Tegucigalpa. Corruption among prison officials is reported to be rife. A main concern with respect to the right to life is the effective relinquishment to inmates of authority and discipline, which has led to abuses, extortion and intra-prison violence and killings. Under inmate control, prisons are run by "coordinators" who direct activities essential to the lives of most of the prison population without control or criteria decided by the prison administration. Inmates are placed in a position of subordination and vulnerability. Coordinators are known to have beaten, removed from cells and punished

[75] See www.pen-international.org/newsitems/in-post-coup-honduras-violence-against-journalists-and-impunity-escalate-freedom-of-expression-and-cultural-rights-undermined/?print=print, and www.proceso.hn/component/k2/item/15922.html.

[76] See *Situation of Human Rights in Honduras*, pp. 146-147.

prisoners with the acquiescence of prison authorities. Inmates have described situations of internal shootings among members of opposing gangs and grenade explosions that resulted in the death of several inmates, which were facilitated by the tolerated stock of all types of weaponry within prison walls.

103. Faced with this critical situation, the authorities assigned military officers to manage most of the countries prisons, in breach of articles 39 and 60 of the Law on the National Penitentiary System. In addition, they established detention centres in three military battalions where they have transferred reportedly dangerous inmates, such as gang leaders. The militarization of the country's penitentiary service has brought up numerous concerns, as military training is not fit for purpose and could lead to an array of human rights violations.

104. The national preventive mechanism plays an essential role in this context and needs to be strengthened.

IX. Engagement with the regional and international human rights protection system

105. Honduras has a chequered relationship with the Inter-American System for the protection of human rights. The Special Rapporteur is particularly concerned about the lack of effective implementation of precautionary measures of the Inter-American Commission on Human Rights and urges the Government to step up its efforts to ensure their immediate and full application. The work of the Commission is of great importance and has a great impact in Honduras. Its continued ability to engage in the country is paramount.

106. The Special Rapporteur welcomes the establishment in 2015 of a country office for Honduras of OHCHR.

X. Conclusions and recommendations

A. Concluding remarks

107. **A few years ago, Honduras had the highest murder rate in the world. Since then, a number of significant steps have been taken to reduce the levels of violence, which remain alarmingly high but have started to move in the right direction. The most difficult but important part still lies ahead: to consolidate the gains and bring the violence down further.**

108. **The Special Rapporteur met with many officials who were confronting the problems head-on and were committed to changing the situation. Likewise, many parts of civil society were vibrant and engaged.**

109. **The problem of violence in the country has two parallel dimensions: first, the high number of people who are killed; and the low number of perpetrators who are held accountable. Regional patterns of drug smuggling and grinding poverty and inequality make it hard to break out of the cycle of violence, but the gains that have been made show this is not insurmountable. Impunity is the hallmark and to a large extent the cause of the ongoing violence. While impunity is the result of engrained corruption, extortion and weak institutions, much can and should be done to remedy the situation.**

110. **Positive steps have been taken. Law enforcement agencies have increased their capacity and gang leaders have been jailed or extradited from the country. The police force is undergoing a far-reaching restructuring and strengthening process, which is much-needed to reverse the current militarization of law enforcement. A law has been passed to better protect human rights defenders, journalists and others, and consideration is being given to change the law to ensure better gun control.**

111. In an interview, one family member of a victim said "we have lost our culture of life". Beyond legal reform, it is that culture that must be restored. The Special Rapporteur has also met with people who are restoring the normality of life through open-air concerts, sport and opportunities for young people. These are all important initiatives, and more is needed. The crucial and most difficult part of the road back to a culture that cherishes life lies ahead. Some additional legal changes are required, but it is important not simply to wait for them to come about. The challenge, in addition to taking other steps to restore the culture of life, is the consistent implementation of the current laws — without fear or favour, and as a matter of urgency.

112. Civil society is an active part of the quest to improve the situation, as seen for example in the giant demonstrations against corruption that were managed with restraint. At the same time, one can feel in Honduras a sense of resignation that the status quo is unlikely to change. The current downward trajectory in the incidence of violence should help to counter that approach and demonstrate that change is possible.

B. Recommendations addressed to the Government

113. The Special Rapporteur recommends that the Government develop a comprehensive strategy to ensure the effective protection of the right to life. The process should be driven by cross-sectoral coordination or, if the necessary capacity and inclination can be found therein, by the National Human Rights Commission.

114. With respect to legislation, the Special Rapporteur recommends that the Government:

(a) Ensure that the provisions on the use of force by all sectors of law enforcement, including the police, military police and penitentiary system, are brought into conformity with international standards;

(b) Also ensure that the reform of the Organic Law of the National Police complies fully with international standards governing the use of force, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials;

(c) Further ensure that the reform of the Law on the Control of Firearms, Ammunition, Explosives and other Similar Items introduces strict regulations on the type and number of weapons permissible, and tight registration requirements for the purchase of guns, in order to protect all individuals from the threat of gun violence.

115. With respect to law enforcement, the Special Rapporteur recommends that the Government:

(a) Develop clear criteria for the police certification process;

(b) Guarantee clearly defined rules of engagement for the military police and the cessation of its functions as soon as the emergency situation has passed;

(c) Ensure that the National Force for Inter-institutional Security is headed by a civilian, and guarantee the independent performance of duties of judges and prosecutors who are part of that Force.

116. With respect to government officials and institutions, the Special Rapporteur recommends that the Government:

(a) Strengthen the independence of the National Human Rights Commission in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and ensure that the nomination and selection process is fair and transparent;

(b) Ensure that the National Human Rights Commission develops more effective and creative approaches to its work on right-to-life issues, for example, through the provision of protective measures;

(c) Continue and strengthen the role of the national preventive mechanism, for example, by ensuring it receives adequate support and resources and can function without interference;

(d) Ensure the effective implementation of the system to monitor the implementation of recommendations on human rights.

117. With respect to the protection of affected groups, the Special Rapporteur recommends that the Government:

(a) Ensure as a matter of priority that the policy framework for the implementation of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators is completed and implemented; also ensure that the national protection system is adequately staffed and funded and that clear protocols are put in place to evaluate its performance and improve its response to situations of risk; and raise awareness about the existence of the mechanism, especially at the local level;

(b) Instruct the relevant entities, for example, the national protection system, to respond promptly and effectively to the precautionary measures granted by the Inter-American Commission on Human Rights;

(c) Take appropriate measures to protect the right to life of children, particularly during protests, arrests and raids, and establish regulations for the armed forces, police and judiciary on how to ensure the rights of children during the investigation of homicides;

(d) Train the police and judicial authorities on gender-identity and sexual-orientation awareness; ensure protective and precautionary measures for lesbian, gay, bisexual and transgender persons; and encourage societal tolerance;

(e) Create a safe corridor for migrants in transit, including better protection while in transit, strengthen cooperation between State bodies and community organizations that provide humanitarian assistance to migrants, provide adequate redress to victims of violence committed in the country and also provide adequate consular services abroad;

(f) Strengthen cross-border cooperation with countries in the region, with a view to reducing the incidence of trafficking in persons;

(g) Coordinate with countries in the region to establish shared databases on fingerprints, DNA, genetics and missing persons;

(h) Ensure full family and community reintegration of returning migrants and design strategies that address the structural factors leading to the forced migration of persons.

118. With respect to accountability for human rights violations, the Special Rapporteur recommends that the Government:

(a) Ensure the full, prompt, effective, impartial and diligent investigation of homicides perpetrated against human rights defenders, justice operators, indigenous people, journalists, land rights defenders, women migrants, children, inmates and lesbian, gay, bisexual and transgender persons; and also ensure the effective prosecution and conviction of the perpetrators and masterminds of those homicides;

(b) Instruct prosecutors to complement individual investigations with searches for broader patterns or other common factors that could help in investigating crimes and in identifying the perpetrators and masterminds of the above-mentioned homicides;

(c) Ensure that sufficient funding to the Public Prosecutor's Office, in particular the Technical Agency of Criminal Investigation, to guarantee the continued

professionalization of its staff, procedures and laboratories with the aim of improving the effectiveness of criminal investigations;

(d) Provide training and support to strengthen the capacity of prosecutors and investigators;

(e) Conduct prompt and comprehensive autopsies in all homicide cases;

(f) Ensure that all criminal investigations are guided by the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), and that forensic experts are adequately trained on the uses of the Manual;

(g) Also ensure that the investigation into and the prosecution and trial of homicides linked to organized crime, drug trafficking and gang activity fall within national jurisdiction, in order to allow federal authorities to attract cases where local authorities are not in a position or are unwilling to do so;

(h) Respect the right of victims and their families to be informed of the status of criminal investigations;

(i) Improve data collection and analysis of incidents of violent deaths and ensure the use of common, reliable and transparent recording methods. Such data should be disaggregated by sex, race, age, ethnicity, occupation or affiliation, geographic location and other relevant characteristics, in order to understand the magnitude, trends and patterns of the problem. Furthermore, it should collect reliable statistics on the number of homicides that lead to prosecution, the number of effective convictions and the number of cases involving security forces.

119. **With respect to prisons, the Special Rapporteur recommends that the Government:**

(a) Improve conditions for all detainees, in compliance with the Standard Minimum Rules for the Treatment of Prisoners and ensure the right to life of all inmates;

(b) Address the situation of overcrowding and poor conditions of the prison system;

(c) Ensure that prisons are under the control of penitentiary officers and descale the militarization of prisons with a view to achieving its full return to civil administration;

(d) Also ensure that prisons are not permeated by gangs, and should impede the access by inmates to arms, drugs and mobile telephones, which could be used to commit crimes and endanger the lives of others inside and outside prisons.

120. **With respect to private security companies, the Special Rapporteur recommends that the Government:**

(a) Establish a process of stricter control over private security providers, and that the registration and functioning of private security companies is tightly vetted, controlled and supervised. It should establish rules of engagement that govern the use of arms and force by private security agents;

(b) Ensure that private security personnel and firearm lists are kept fully up to date and are in full compliance with national laws.

C. Recommendations addressed to the international community

121. **The international community should ensure that Honduran migrants who indicate that their lives are at risk in their home country and request asylum abroad are granted immediate access to legal assistance or to organizations that could assist them in processing their request. In compliance with the principle of non-refoulement, receiving countries should refrain from deporting migrants whose lives are at risk without having properly and thoroughly assessed their cases and asylum applications.**

122. **Countries where Honduran migrants have been subjected to physical abuse should adopt immediate measures to protect the survivors, to guarantee that criminal investigations and prosecutions are undertaken without delay and to return the remains of the deceased. The families of the victims must be informed and cooperation should be established with the Government of Honduras.**

123. **The international community should provide sustainable financial assistance to the Inter-American Commission on Human Rights to allow it to continue to play its vital role in the entire region, including Honduras.**